

ORDINANCE NO. 47-037

AN ORDINANCE AMENDING THE “WICHITA-SEDGWICK COUNTY SUBDIVISION REGULATIONS, JANUARY 28, 1999 EDITION,” AS ADOPTED BY REFERENCE IN CITY OF WICHITA CODE SEC. 28.05.010 (DR2006-06)

WHEREAS, under the authority of K.S.A. 12-741, et seq., the City of Wichita and Sedgwick County desire to amend The Wichita-Sedgwick County Subdivision Regulations to amend provisions regarding applicability and exemptions.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA;

SECTION 1. Section 28.05.037 of the Code of the City of Wichita shall read as follows:

Sections 3-104 and 3-105 of “The Wichita-Sedgwick County Subdivision Regulations, January 28, 1999 Edition” as adopted by reference in Section 28.05.011 of the Code of the City of Wichita are hereby deleted and replaced by the following:

3-104. Applicability. No building permit shall be issued by the City of Wichita or Sedgwick County, Kansas, for construction on any land that does not have a required subdivision plat that has been prepared and approved and is in compliance with these regulations and all other applicable state and local laws, rules and regulations unless the conditions of this section or the exemptions of Section 3-105 exist.

No building permit shall be issued by the City of Wichita or Sedgwick County, Kansas, for construction on any portion of a platted lot that is held in separate ownership from the remainder of the lot, unless a “lot split” or replat has been approved in compliance with these regulations unless the conditions of this section or the exemptions of Section 3-105 exist.

(A) Permits for repairs, maintenance, continuation of an existing use or occupancy, including the expansion or rebuilding of an existing principal and/or accessory structure, provided that total expansion of floor area for non-residential uses does not exceed 30 percent, may be issued; provided however, that the Zoning Administrator may deny or withhold such permits if the rebuilding or expansion does not conform to all applicable ordinances, resolutions and codes relating to lot coverage, building setbacks and zoning.

(B) No building permit or occupancy certificate shall be issued for a building or structure on any unplatted tract or parcel until the applicant first shows, by satisfactory evidence to the building permit issuing officer or his/her delegated agent, that the following conditions exist:

- (1) The tract or parcel is not landlocked, i.e., has proper access by way of a public or private road to a city, county, township, or state highway system.
- (2) The tract or parcel has access to all utility and telephone services by way of a recorded easement dedicated to the public. The easement serving the property shall not be less than 20 feet in width adjacent to a rear property line or 10 feet in width adjacent to a side property line.

The easement shall extend continuously to a service entrance point and exit point for all the utilities and telephone services.

- (3) Any required sewerage permit has been obtained.
- (4) Any required water well permit has been obtained.
- (5) All required permits from the State such as, but not limited to, the creation of dams and lakes have been obtained.
- (6) The proposed building site, as designated on a plot plan, is not located on land subject to flooding as described in Section 7-103 of these Regulations.
- (7) If any portion of the property lies in a flood hazard area as shown on the Flood Boundary and Floodway Map published by the Federal Emergency Management Agency, or if drainage channels and waterways exist on the property that carry runoff from adjacent property or public roads, the flood hazard area or drainage channel shall be protected by grant of easement, dedication or other similar devise as may be required by the Director of Sedgwick County Public Works.
- (8) If the property is located adjacent to a public road right-of-way that does not conform to the requirements of Section 7-201, additional right-of-way shall be granted by dedication or easement as may be required to conform to Section 7-201.

It shall be the responsibility of the property owner or his agent to provide to the Zoning Administrator copies of recorded instruments showing both the name of the current owner and a complete legal description of the property for which an exemption is requested.

3-105. Exemptions. In addition to the land outside the jurisdiction of these regulations as outlined in Section 3-102, these regulations shall not apply in the following instances or transactions for properties located within the jurisdiction hereof:

- (A) Any lot, tract or parcel of land located within the area governed by these regulations that has been legally platted in accordance with subdivision regulations in effect prior to the effective date of these regulations.
- (B) The division or further division of land in the unincorporated area of Sedgwick County into lots, tracts or parcels of twenty (20) acres or more when subdivided for agricultural or single-family residential purposes only and that does not involve or result in the creation of any new streets; provided:
 - (1) The division of land is located adjacent to a public road that has been accepted by the County or a township or the division of land is located adjacent to a private road whose right-of-way width conforms to the standards established by Section 7-201. At an official meeting, the Director of Sedgwick County Public Works or the Board of County Commissioners shall determine if the private road meets the standards set forth in Section 7-201.

- (2) In the case of a private road, there must be covenants filed of record that provide for the maintenance of the private road. The covenants must provide a mechanism that authorizes the County to maintain the private road, and charge incurred costs to the owners of the land benefiting from the road, if the owners fail to maintain the private road.
 - (3) If any portion of the property lies in a flood hazard area as shown on the Flood Boundary and Floodway Map published by the Federal Emergency Management Agency, or if drainage channels and swales exist on the property that carry runoff from adjacent property or public roads, the flood hazard area or drainage channel shall be protected by grant of easement, dedication or other similar devise as may be required by the Director of Sedgwick County Public Works.
 - (4) If the property is located adjacent to a public road right-of-way that does not conform to the requirements of Section 7-201, additional right-of-way shall be granted by dedication or easement as may be required to conform to Section 7-201.
 - (5) For purposes of this provision, measurement of the 20 acres for exemption purposes shall include any adjacent road right-of-way and/or easement. A normal division of property shall be considered an exempt tract. Irregular divisions of property shall contain a full 20 acres, including any rights-of-way and easements, in order to be exempt.
 - (6) In order for property to be considered for an exemption pursuant to this section, the property owner or his agent shall first file with the Register of Deeds Office a Restrictive Covenant pertaining to such property that has the effect of prohibiting the sale, long-term lease, devise, transfer or division of the property until all portions of the property that are not exempt under this section are first required to be platted according to the provisions set forth herein. Restrictive Covenant forms may be obtained from Metropolitan Area Planning Department or Sedgwick County Code Enforcement.
- (C) A boundary shift. A drainage plan shall be required if the boundary shift contains over 5,000 square feet.
- (D) Land used for street or railroad right-of-way, a drainage easement or other public utilities subject to local, state or federal regulations, where no new street or easement of access is involved.
- (E) Land used for highway or other public purposes relative to the dedication of a parcel of land for a public use or instruments relating to the vacation of land impressed with a public use.
- (F) A correction of a description in a prior conveyance, provided that such a conveyance shall be clearly labeled as a "Correction Conveyance" and shall clearly identify the prior conveyance that is the subject of correction and the error contained in such prior conveyance.
- (G) Whenever the lot, tract, or parcel has been sold off, divided, subdivided, resubdivided or replatted by the following dates:
- (1) January 1, 1948, for land within the City of Wichita or the City of Wichita's July 1, 1968, three-mile ring;

(2) July 1, 1968, for land beyond the City of Wichita's July 1, 1968, three-mile ring.

(H) The division of land in the unincorporated area for single-family or agricultural purposes that creates no more than one additional parcel, tract or lot than specified in subsection (G) and that results in tracts of land or lots that comply with the design requirements for lots in Section 7-204 of these regulations and with the applicable provisions of the Wichita-Sedgwick County Unified Zoning Code and Chapter 14, Article V, of the Sanitary Code of Sedgwick County. This exemption is in addition to the exemption contained in (G) used to determine the requirements for platting.

(I) Any lot split approved in accordance with these regulations.

Any request made in writing for a determination as to qualifications for being exempt from these regulations shall be answered, by the Zoning Administrator with the concurrence of the Planning Director, either in the affirmative or negative, within 30 days after the filing of the request or the exemption shall be considered granted. Appeals of such determinations may be taken in accordance with Section 10-101.

SECTION 2. This ordinance shall be included in the Code of the City of Wichita and shall be effective upon its adoption and publication once in the official City newspaper.

PASSED AND ADOPTED by the governing body at Wichita, Kansas, this 23rd day of May, 2006.

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to form:

Gary E. Rebenstorf, Director of Law